

GOVERNMENT OF TELANGANA  
ABSTRACT

Tribal Welfare Department - Revision Petition filed by Sri Datla Venkateshwarlu S/o (late)Venugopalan Babu, R/o Ramanujavaram (V), Manuguru (M), Khammam District - against the orders of the Additional Agent to Government, Bhadrachalam, Bhadradri Kothagudem District in C.M.A No: 62/2008 dated: 29-08-2009 - Rejected - Orders - Issued.

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TRIBAL WELFARE (LTR) DEPARTMENT

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G.O.Ms.No.7

Dated:11-01-2019,  
Read the following:-

- 1) orders of the Additional Agent to Government, Eturunagaram, Warangal District in C.M.A No: 62/2008, dated:29-08-2009.
  - 2) Revision Petition filed by Sri Datla Venkateshwarlu S/o (late)Venugopalan Babu R/o Ramanujavaram (V), Manuguru (M), Khammam District, Dt:05.10.2009.
  - 3) Govt.Memo.& Letter No .10414/LTR.2/2009, dt 11.11.2009.
  - 4) From the Additional Agent to Govt., Bhadrachalam, Erstwhile Khammam District RP No 10414/LTR-2/09(CMA No.62/2008), Dt:09.02.2010.
  - 5) Govt.Memo & Letter.No.10414/LTR-2/2009, Dt:18.03.2015,12.07.2016, 09.09.2016,15.10.2016,16.12.2016,30.01.2017,08.03.2017,27.04.2017, 07.06.2017, 16.12.2017, 24.01.2018.
  - 6) Written Arguments filed by the Petitioner and his Brothers dt:12.03.2018.
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ORDER

In the reference 2<sup>nd</sup> read above, Sri Datla Venkateshwarlu S/o (late)Venugopalan Babu R/o Ramanujavaram (V), Manuguru (M), Khammam District has filed Revision Petition through his Counsel before the Government aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in C.M.A No: 62/2008, dated:29-08-2009 in respect of land measuring Acres 35-07 gts. in Survey No:18, 19/1 and 19/2 of Ramanjavaram (V) Manuguru (M), Khammam District.

2. In the reference 3<sup>rd</sup> read above, Government have rejected Stay Petition and the Project Officer & Additional Agent to Government, Bhadrachalam Warangal , Erstwhile Khammam District was requested to furnish Para Wise Remarks and connected case records and in the reference 4<sup>th</sup> cited the Additional Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the Revision Petitioners are as follows:

- That the order of the 1<sup>st</sup> respondent (AAG, Bhadrachalam) under revision is arbitrary, not in appreciation of the facts in accordance with law, ultra vires the provisions of Land Transfer Regulation 1/1959 as amended by Regulation 1/1970, against the principles of natural justice and against the binding precedents of the Hon'ble High Court of Judicature of A.P., and the Hon'ble Supreme Court of India. Therefore not sustainable under law.
- That the order under revision is issued by the Additional Agent to Government, Bhadrachalam with material irregularity and illegally, without considering and appreciating the written arguments filed by the petitioners and passed the order under revision without any justification and therefore the impugned order under appeal is liable to set aside in obedience of the decision of the Hon'ble High Court of Judicature Andhra Pradesh as reported in 2003(3) ALT page - 127 and 2005(2) ALT page- 462 where in the Hon'ble High Court declared that order passed without considering the written arguments cannot be sustainable under law.
- That the findings of the Additional Agent to Government, Bhadrachalam failed to appreciate that the 2<sup>nd</sup> respondent (SDC(TW), Bhadrachalam) passed the impugned orders dated 14.05.2008 in favour of the petitioner herein.

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- That the Additional Agent to Government, Bhadrachalam failed to note and consider that, he is having jurisdiction to pass order and decree ejectment of the persons who are in possession of immovable property in the scheduled area claiming under transfer affected subsequent to the commencement of the Regulation, and that he is not having jurisdiction or authority to adjudicate anything in respect of the possession of the petitioners who are claiming possession since long prior to the commencement of the Regulation. Therefore the orders of the 1<sup>st</sup> respondent is without jurisdiction, and the observation is supported by any evidence, enquiry or justifiable reasons. Therefore the order under revision is liable to be set aside.
- The Additional Agent to Government, Bhadrachalam having found that, the possession of the petitioner is since 1968 onwards, ought to have set aside the orders of the Special Deputy Collector(TW), Bhadrachalam by allowing the appeal, but the Additional Agent to Government, Bhadrachalam arbitrarily, without any jurisdiction and authority passed the order under revision, holding that the sale transaction took place on a white paper and that the petitioner is not existing as pattadar and his name not entered in the Revenue records and therefore he is liable to be ejected is absolutely not justifiable and on the other hand the said observation causing grave prejudice to the petitioners.
- The observation of the Additional Agent to Government, Bhadrachalam is not justified in directing the Tahsildar, Manuguru Mandal by way of reiterating to take over possession of the Scheduled land for purpose of assessment to members of Scheduled Tribes, without appreciating the provisions of Sec.3(2)(a) of the Land Transfer Regulation 1/1959 and failed to consider the decision of the Hon'ble High Court in Vasudha Mishra's case as reported in 1998 (1) ALT 680, and failed to follow the guide lines issued by the Hon'ble High Court in the said case and failed to note that, as per the said provision of Law, the Government cannot take that possession of the schedule land and on the other hand the schedule land is liable to be restored to the vendor of the petitioners.

4 The remarks of the Project Officer, ITDA, Bhadrachalam and the Additional Agent to Government, Bhadrachalam District on the Revision Petition are as follows:

- The 1<sup>st</sup> Respondent (AAG, Bhadrachalam) Passed order clearly shows that the elaborately discussed all the points raised by the Respondents. The Revision Petitioner has filed only counter. But he has not filed written arguments. As such it is not correct to say that the 1<sup>st</sup> Respondent herein not appreciating the writing Arguments filed by the Respondent.
- Admittedly the petitioner and Respondents are non tribals, the burden lies on the non tribal Respondent to show his possession is lawful in contravention of Regulation. The Tahasildar Manu Guru case is that, Datla Venugopalam Babu who is the 2<sup>nd</sup> respondent in CMA 62/08 not shown the schedule land before the land reforms Tribunal. The ceiling Act came in to the force after the commencement of the Regulation. If the Respondents is in possession of the land prior to the 1970 and they are in possession of the land at the time of ceiling they would have shown the land in their holding before the land ceiling Tribunal and not showing the scheduled land before the Tribunal.
- It clearly establish that they are not in possession of the scheduled land even at the time of submitting their Land ceiling declaration before the competent authority which is void under law. The Revision Petitioner herein failed to prove his case how he came into possession another non tribal land. Before the lower court the 2<sup>nd</sup> Respondent Datla Venugopalam Babu in his counter stated that he has acquired scheduled land Ac. 35-07 gts through an agreement of sale dt:16.09.1968 which is unregistered and has not value in the eye of law. He has also failed to produce of the pahani extracts for the year of alleged purchase. The schedule land is situated in the Schedule area the burden lies on the non-tribal Respondent to prove his possession. In this

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case the Revision Petitioner failed to establish his lawful possession over the schedule land.

- As per the orders of the Hon'ble High Court of AP Hyderabad in WA No.78/1991 and 1664/1988 and WP.Nos.13377/1986, 13470/86 dt:13.02.1993 published in 1993 (1) ALT.409 (FB) in Vemula Somalamma V/s Spl.Dy.Collector (TW) Rampachodavaram "when a non-tribal transfer the land to a non-tribal in contravention for the provisions of Sec.3 (1) (a), he will not be entitled to ask the authorities for restoration of the property in his favour invoking the provisions of cause (a) of sub-sec. (2) of sec.3. The said clause will not apply to non-tribal transferor". As per the decisions of the Hon'ble High Court, the lower court rightly passed orders. As per the orders of the Hon'ble High Court in above said case, the Additional Agent to Government, Bhadrachalam directed the Tahasildar to take over the possession of the land to assign to eligible tribals.
- Order passed by the Additional Agent to Government, Bhadrachalam herein is proper and legally correct according to the provisions of APSA Land Transfer Regulation 1/59 amended by 1/70. It is therefore prayed that the Government may be pleased to dismiss the Revision Petition.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, observed that:

- Perused the entire case records, wherein orders passed by the lower court, the appellate authority and also the grounds urged by the petitioner in the revision petition and did not see any valid or substantiating grounds in the revision petition. The Additional Agent to Government, Bhadrachalam has thoroughly examined and Pronounced his order vide CMA.No:62/08 Date:29.08.2009 at length. The Revision petitioner has not submitted any fresh grounds before this authority.

6. Government therefore after careful examination of the matter here by rejects the Revision Petition filed by Sri Datla Venkateswarlu S/o (late) Venugopalan Babu R/o Ramanujavaram (V), Manuguru (M), Khammam District through his Counsel before the Government and upholds the orders of the appellate authority i.e. Additional Agent to Government, Bhadrachalam, Bhadradi Kothagudem District passed in C.M.A No: 62/2008, dated:29-08-2009 in respect of land measuring Acres 35-07 gts. in Survey No:18, 19/1 and 19/2 of Ramanjavaram (V) Manuguru (M), Khammam District.

7. The Tahsildar, Mannanur is directed to take over the Suit Scheduled land into Government custody evicting the persons who ever in the possessions and assign the same to the poor eligible Tribals under cover of panchanama as per rules in force immediately.

7. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly and to file caveat in the Hon'ble High Court immediately on behalf of all official respondents. The original case records received in the reference 4<sup>th</sup> read above are returned herewith.

(BY ORDER AND IN THE NAME OF GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,  
SECRETARY TO GOVERNMENT

To

Sri Datla Venkateswarlu, S/o Late Venugopalam Babu  
R/o Ramanujavaram Village of Manuguru Mandal  
Bhadrachalam Bhadradi Kothagudem District.

Sri Datla Venugopalam babu,  
R/o Ramanujavaram Village of Manuguru Mandal  
Bhadrachalam, Bhadradi Kothagudem District.

Sri Budda Raju Buchi Venkata Krishnam Raju  
R/o Ramanujavaram Village of Manuguru Mandal  
Bhadrachalam, Bhadradi Kothagudem District.

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The Project Officer, ITDA and Additional Agent to Government,  
Bhadrachalam, Bhadradi Kothagudem District (w.e.)

Copy to :

The Special Deputy Collector(TW), Bhadrachalam, Bhadradi Kothagudem District  
for information and necessary action.

The Tahsildar, Manuguru Mandal, Khammam District for necessary action.

Sri Nanduri Srinivasa Rao & Sri Komma Raju Srimannarayana, Advocates  
(Counsel for the petitioner) Bhadrachalam - 507 111.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER